

Rita McKnight appeals her conviction for possession of cocaine as a class C felony.¹ McKnight raises one issue, which we restate as whether the evidence is sufficient to sustain her conviction. We affirm.²

The relevant facts follow. On January 19, 2007, Officer Bryan Fox was patrolling and saw McKnight driving her vehicle with a flat tire. McKnight's vehicle was moving very slowly and causing a traffic hazard as other vehicles tried to maneuver around it. Officer Fox turned around, drove behind McKnight's vehicle, and activated his emergency lights. McKnight continued driving the vehicle at the same slow speed for an additional two blocks before coming to a stop.

McKnight opened the vehicle's door and began to exit when Officer Fox ordered her back into the vehicle. Officer Fox asked for McKnight's license and registration and asked if she had been involved in an accident based upon damage to the front of her vehicle. McKnight indicated that she had not been involved in an accident, that she had a tire blow out, and that she did not have her license with her. Officer Fox discovered that McKnight was driving with a suspended license, arrested her, and impounded the vehicle. While performing an inventory of the vehicle, Officer Fox discovered a bag of crack cocaine under the armrest next to the driver's seat. The cocaine weighed 10.75 grams.

¹ Ind. Code § 35-48-4-6 (Supp. 2006).

² We remind McKnight's counsel that Ind. Appellate Rule 50(C) requires that a table of contents in an Appellant's Appendix "shall specifically identify each item contained in the Appendix, including the item's date." The table of contents in McKnight's Appendix identifies the chronological case summary and the verification but does not mention the remaining fifty-five pages of the appendix. Pursuant to the appellate rule, a more detailed table of contents is required.

The State charged McKnight with possession of cocaine as a class C felony. At the jury trial, McKnight testified that she did not know the drugs were in her car and that her son, her niece, her nephew, and her son's friends also had access to the vehicle. The jury found McKnight guilty as charged. The trial court sentenced McKnight to six years in the Indiana Department of Correction with four years suspended to probation.

The issue is whether the evidence is sufficient to sustain McKnight's conviction for possession of cocaine as a class C felony. When reviewing the sufficiency of the evidence to support a conviction, we must consider only the probative evidence and reasonable inferences supporting the verdict. Drane v. State, 867 N.E.2d 144, 146 (Ind. 2007). We do not assess witness credibility or reweigh the evidence. Id. We consider conflicting evidence most favorably to the trial court's ruling. Id. We affirm the conviction unless "no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt." Id. (quoting Jenkins v. State, 726 N.E.2d 268, 270 (Ind. 2000)). It is not necessary that the evidence overcome every reasonable hypothesis of innocence. Id. at 147. The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict. Id.

The offense of possession of cocaine as a class C felony is governed by Ind. Code § 35-48-4-6, which provides: "(a) A person who . . . knowingly or intentionally possesses cocaine (pure or adulterated) . . . commits possession of cocaine . . . a Class D felony, except as provided in subsection (b)." Ind. Code § 35-48-4-6(b)(1)(A) provides that the offense is a class C felony if "the amount of the drug involved (pure or adulterated) weighs three (3) grams or more[.]" Thus, to convict McKnight of possession of cocaine

as a class C felony, the State needed to prove that she knowingly or intentionally possessed more than three grams of cocaine.

McKnight contends that the State failed to prove that she knowingly or intentionally possessed the cocaine. McKnight argues that there was no evidence presented that the cocaine belonged to her.

The possession of contraband may be either actual or constructive. Henderson v. State, 715 N.E.2d 833, 835 (Ind. 1999). Actual possession occurs when a person has direct physical control over the item. Id. Constructive possession occurs when a person has both “the intent and capability to maintain dominion and control over the item.” Id. Here, we are dealing with constructive possession over the drugs in the vehicle. Thus, we must determine if the State presented sufficient evidence to show that McKnight had the intent and capability to maintain dominion and control over the drugs.

The intent element of constructive possession is shown if the State demonstrates the defendant’s knowledge of the presence of the contraband. Goliday v. State, 708 N.E.2d 4, 6 (Ind. 1999). “This knowledge may be inferred from either the exclusive dominion and control over the premise containing the contraband or, if the control is non-exclusive, evidence of additional circumstances pointing to the defendant’s knowledge of the presence of the contraband.” Henderson, 715 N.E.2d at 835. The exclusive possession of a vehicle is sufficient to raise a reasonable inference of intent. Goliday, 708 N.E.2d at 6. The capability requirement is met when the State shows that the defendant is able to reduce the controlled substance to the defendant’s personal possession. Id.

Here, McKnight's control over her vehicle at the time the drugs were found was exclusive. Consequently, her knowledge of the drugs may be inferred, and the intent element is satisfied. As for her capability to maintain dominion and control over the drugs, McKnight was seated right next to the drugs, which were underneath the armrest. Thus, the State demonstrated her ability to reduce the cocaine to her personal possession.

McKnight's argument that the drugs belonged to someone else is merely a request that we reweigh the evidence and judge the credibility of the witnesses, which we cannot do. Under these circumstances, the jury could infer that McKnight had the intent and capability to exert dominion and control over the cocaine. See, e.g., State v. Emry, 753 N.E.2d 19, 22 (Ind. Ct. App. 2001) (holding that the evidence was sufficient for the jury to infer that the defendant possessed the marijuana where she was in sole possession of the vehicle and marijuana was found in a jacket on the floorboard of the backseat). The evidence is sufficient to sustain McKnight's conviction.

For the foregoing reasons, we affirm McKnight's conviction for possession of cocaine as a class C felony.

Affirmed.

BAKER, C. J. and MATHIAS, J. concur